

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

L. JOE PITTS, As Administrator of)
the Estate of **SANDRA ANN**)
SPENCER PITTS, Deceased,)

PLAINTIFF,)

VS.)

BRIDGESTONE AMERICAS)
HOLDINGS, INC.;)
BRIDGESTONE FIRESTONE)
NORTH AMERICAN TIRE, LLC;)
and **BFS RETAIL AND**)
COMMERCIAL OPERATIONS,)
LLC, Doing Business As)
FIRESTONE TIRE & SERVICE)
CENTERS, jointly and severally,)

DEFENDANTS.)

CIVIL ACTION NUMBER:

2:06cv1008-ID-SRW

PLAINTIFF'S MOTION TO MOOT PLAINTIFF'S MOTION TO
COMPEL WITH LEAVE TO REFILE IF NECESSARY

COMES NOW, Plaintiff by and through the undersigned counsel of record, and moves this Honorable Court for an Order mootting Plaintiff's Motion to Compel with leave to re-file if necessary and as grounds therefore states as follows:

1. On May 25, 2007, Plaintiff filed "Plaintiff's Motion to Compel Production of Testimony and Materials Concerning Other Negligent Tire

Puncture Repairs Performed by the Defendant BFS Retail & Commercial Operations, LLC” (Doc. No. 18).

2. On June 1, 2007, the Court ordered the Defendants to file a written response to Plaintiff’s Motion to Compel on or before June 15, 2007 (Doc. No. 20).

3. On June 11, 2007 counsel for the Defendants contacted undersigned Plaintiff’s counsel and informed that the Defendants would be producing, within two to three weeks, testimony and materials which were the subject of Plaintiff’s pending Motion to Compel (Doc. No. 18).

4. During said telephone conversation plaintiff and defense counsel agreed that Plaintiff’s counsel would file the instant motion mootng Plaintiff’s Motion to Compel and relieving the defendants from the responsibility of filing a written response to said Motion to Compel on or before June 15, 2007.

5. During said telephone conversation plaintiff and defense counsel also agreed that plaintiff’s counsel would moot its motion to compel in a manner such that, if Plaintiff is not satisfied that Defendants’ forthcoming production adequately responds to the discovery requests addressed by Plaintiff’s Motion to Compel, Plaintiff’s Motion to Compel could be reinstated.

6. After this discussion with defense counsel plaintiff's counsel discussed the parties' intent with the Court's chambers was informed that the instant motion to moot Plaintiff's Motion to Compel With Leave to Re-File if Necessary was an appropriate device for effectuating the parties' intent.

WHEREFORE, PREMISES CONSIDERED, Plaintiff moves this Honorable Court for an order mootng its pending Motion to Compel (Doc. No. 18) and suspending the Defendants' briefing deadline in response thereto with leave for the motion to be reinstated, if necessary.

Respectfully submitted,

/s/Robert P. Bruner
Lanny S. Vines (VIN 002)
Robert P. Bruner (BRU 029)
Attorneys for Plaintiff

OF COUNSEL:
LANNY VINES & ASSOCIATES, LLC
Lanny S. Vines
Robert P. Bruner
2142 Highland Avenue South
Birmingham, AL 35205-4002
Tel: 205-933-1277
Fax: 205-933-1272

CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Lanny S. Vines, Esq.
Robert P. "Bo" Bruner, Esq.
LANNY VINES & ASSOCIATES, LLC
2142 Highland Avenue South
Birmingham, Alabama 35205-4002

Brittin T. Coleman
Kenneth M. Perry
Hope T. Cannon
Bradley Arant Rose & White LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, AL 35203-2104

and I hereby certify that I have mailed by United States Postal Service the foregoing to the following non-CM/ECF participants:

None

/s/Robert P. Bruner
OF COUNSEL